

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LONNIE MORRIS,

Petitioner,

v.

J. BROWN, Warden,

Respondent.

No. C 04-02813 SBA (PR)

**ORDER DENYING REQUEST FOR  
CERTIFICATE OF APPEALABILITY AS  
UNNECESSARY; GRANTING REQUEST  
TO PROCEED IN FORMA PAUPERIS  
ON APPEAL**

Petitioner has filed a notice of appeal following this Court's denial of his habeas petition challenging the decision by the California Board of Prison Terms (BPT) finding him unsuitable for parole. The Court construes the notice of appeal as an application for a certificate of appealability. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997); 28 U.S.C. § 2253(c)(3). He also moves for leave to proceed in forma pauperis on appeal.

Petitioner's request for a certificate of appealability is DENIED as unnecessary. The Ninth Circuit recently made clear that a state prisoner challenging the administrative decision by the BPT to deny his request for parole need not obtain a certificate of appealability. See Rosas v. Nielsen, 428 F.3d 1229, 1232 (9th Cir. 2005).

Good cause appearing, Petitioner's request for leave to proceed in forma pauperis on appeal is GRANTED.

The Clerk of the Court shall process the notice of appeal.

IT IS SO ORDERED.

DATED: 1/15/08

  
SANDRA B. GENSKY  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MORRIS,

Plaintiff,

v.

BROWN et al,

Defendant.

Case Number: CV04-02813 SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 16, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lonnie Morris B-95677  
California State Prison - San Quentin  
San Quentin, CA 94964

Dated: January 16, 2008

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk